

REMARKS

Applicants acknowledge receipt of the Office Action dated September 24, 2004, in which the Examiner rejected claims 1-3, 6-13, and 16-20 as anticipated by U.S. Patent 4,634,446 to *Kristinsson* and rejected claims 1 and 11 as anticipated by U.S. Patent 3,953,900 to Thompson.. Applicants respectfully traverse these rejections for the reasons set out below.

Kristinsson

In support of the rejection, the Examiner states that “*Kristinsson* discloses a prosthetic hip comprising a socket (1), a mount (7), a joint axis (14), a first member (8), an upper leg end (9) a load arm (18 & 17), an extension stop member having two engaging means to prevent rotation of the first member to the socket.”

Applicants respectfully submit that, in characterizing the reference in this manner, the Examiner has overlooked important limitations that are present in claim 1 as written. Specifically, claim 1 requires that the mount on said outer surface *define a joint axis that substantially coincides with the natural axis of rotation of the patient's natural leg when the leg is rotated in a sagittal plane*. By contrast, axis 14 of *Kristinsson*, while it is parallel to the axis recited by claim 1, is well below the axis recited in claim 1. To illustrate where the claimed axis would fall on the Figures of *Kristinsson*, a page from *Kristinsson* is attached hereto, with applicant's axis added. Furthermore, because the prosthesis of *Kristinsson* is constructed with pivot assembly (holder means) 7 toward the inside of the patient's body, unlike the present invention, it would be physically impossible to raise the pivot assembly to the plane or level recited in the present claims.

In addition, neither axis 12 nor axis 14 of *Kristinsson* is used during operation of the prosthesis, i.e. walking. Rather, both are provided for the purpose of adjusting the prosthesis to an individual wearer. See col. 4, ll. 24-30, which reads:

“The holder means 7 also permits the sleeve to be adjusted in a desired direction, by rotating the sleeve around an axis 12, whereat the sleeve may be set at a desired angle or inclination by means of setting screws 13. The sleeve may also be rotated about an axis 14 and, for example, locked by friction engagement between two serrated means.” (emphasis added)

Thus, neither axis 12 nor axis 14 is “joint axis” at all.

For all of the foregoing reasons, claim 1 and its dependent claims are distinguishable *Kristinsson*.

Thompson

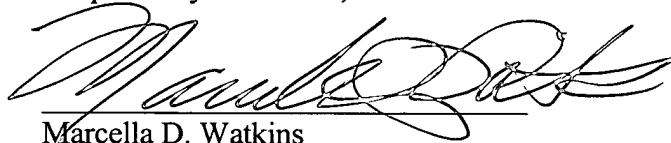
The Examiner's basis for rejecting the present claims as anticipated by *Thompson* must fail for the same reason. Namely, joint axis 4 of *Thompson* lies in the plane of the knee and does not coincide with the natural axis of rotation of the patient's natural leg when the leg is rotated in a sagittal plane as required by the claims.

Applicant emphasizes that it is this placement of the present joint axis, such that the prosthesis rotates in a manner approximating a natural hip and leg, that is distinguishable over the art.

Conclusion

Because Applicant believes the claims to be patentable as written for the reasons set out above, Applicant has not amended the claims. Applicants respectfully request that the Examiner reconsider and withdraw the rejections. If the Examiner has any questions regarding this matter, he is encouraged to telephone the undersigned at (713) 238-8043.

Respectfully submitted,



Marcella D. Watkins
Reg. No. 36,962
CONLEY ROSE, P.C.
P. O. Box 3267
Houston, Texas 77253-3267
(713) 238-8000
ATTORNEY FOR APPLICANT